

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

CA 04-30189-MAP

-----X
PAUL T. PAPADAKIS,
Plaintiff, : CIVIL ACTION
-vs- : NO.
CSX TRANSPORTATION, INC., :
Defendant :
-----X

U. S. DISTRICT COURT
N. D. OF N. Y.
FILED

MAR 16 2004

COMPLAINT

AT 10 O'CLOCK P.M.
LAWRENCE K. BAERMAN, Clerk
UTICA

COUNT I

1. The plaintiff is a resident of Feeding Hills, Massachusetts, and brings this action against the defendant, CSX Transportation, Inc., a railroad corporation duly established by law and having an usual place of business in Albany, New York for injuries suffered by him while in the employ of the defendant, CSX Transportation, Inc. This action is brought by virtue of the provisions of the Federal Employers' Liability Act, 45 U.S.C.A., Section 51, et seq.

2. During all the times herein mentioned, the defendant was a common carrier, engaged in the business of interstate commerce, and, as such, operated a railroad in such business between the said Albany, New York and Massachusetts; and, at the time the plaintiff received the injuries

ECF DOCUMENT
this is a printed
copy of a document which was
electronically filed with the
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK.
LAWRENCE K. BAERMAN, CLERK
Dated: 9/24/04
By: [Signature] Deputy Clerk

complained of, both he and the defendant were engaged in interstate commerce, within the meaning of the said Federal Employers' Liability Act.

3. On or about June 13, 2001, the plaintiff was employed as an I&R Foreman by the defendant and was engaged in his duties as an I&R Foreman operating a motor vehicle owned, leased, rented or otherwise under the defendant's control, which vehicle had been inspected, repaired and/or maintained by agents, employees and/or contractors of the defendant in Selkirk, New York, and as a result of the negligence of the defendant, its agents, servants or employees, in connection with the inspection, maintenance and/or repair of said vehicle, the plaintiff was injured at or near Warren, Massachusetts.

4. As a result of the said accident, the plaintiff was made sick, sore and lame and has suffered great pain of body, anguish of mind and will so continue to suffer for an indeterminate period of time in the future; that prior to said accident, the plaintiff was earning the wages of an I&R Foreman as an employee of the defendant; that as a result of the said accident; that the

plaintiff has been and for some time in the future will be caused to incur expenses for doctors' and hospital services and for medicine in caring for the said injuries.

COUNT II

1. The plaintiff is a resident of Feeding Hills, Massachusetts, and brings this action against the defendant, CSX Transportation, Inc., a railroad corporation duly established by law and having an usual place of business in Albany, New York, for injuries suffered by him while in the employ of the defendant, CSX Transportation, Inc.. This action is brought by virtue of the provisions of the Federal Employers' Liability Act, 45 U.S.C.A., Section 51, et seq.

2. During all the times herein mentioned, the defendant was a common carrier, engaged in the business of interstate commerce, and, as such, operated a railroad in such business between the said Albany, New York and Massachusetts; and, at the time the plaintiff received the injuries complained of, both he and the defendant were engaged in interstate commerce, within the meaning of the said Federal Employers' Liability Act.

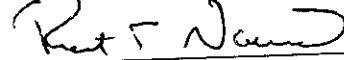
3. On or about June 13, 2001, the plaintiff was employed as an I&R Foreman by the defendant and was engaged in his duties as an I&R Foreman operating a motor vehicle owned, leased, rented or otherwise under the defendant's control, which vehicle had been inspected, repaired and/or maintained by agents, employees and/or contractors of the defendant in Selkirk, New York, and as a result of the failure of the defendant, its agents, servants or employees to use reasonable care to provide the plaintiff a safe place in which to work and to furnish him with safe and suitable tools, appliances and equipment, including a reasonably safe vehicle, the plaintiff was injured at Warren, Massachusetts.

4. As a result of the said accident, the plaintiff was made sick, sore and lame and has suffered great pain of body, anguish of mind and will so continue to suffer for an indeterminate period of time in the future; that prior to said accident, the plaintiff was earning the wages of an I&R Foreman as an employee of the defendant; that as a result of said accident, the plaintiff has been and for some time in the future will be caused to incur expenses for doctors' and hospital services and for medicine in caring for the said

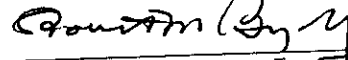
injuries.

PLAINTIFF REQUESTS TRIAL BY JURY.

PAUL T. PAPADAKIS,
By his attorneys,



Robert T. Naumes



Robert M. Byrne, Jr.
THORNTON & NAUMES LLP
100 Summer St., 30th Fl.
Boston, MA 02110
(617) 720-1335



Dale M. Thuillez
THUILLEZ, FORD, GOLD
& JOHNSON LLP
20 Corporate Wood Blvd.
6th Floor
Albany, New York 12211
(518) 455-9952

DATE: March 15, 2004

FELA\PAPADAKIS\COMPLAINT.USDC\ALBANY,NY

JS 44
(Rev. 3/89)**CIVIL COVER SHEET**

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

PAUL T. PAPADAKIS

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF HAMPDEN
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

CSX TRANSPORTATION, INC.

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Robert M. Byrne, Jr., Esq.

Robert T. Naumes, Esq.

Thornton & Naumes LLP, 100 Summer St., Boston, MA 02110

ATTORNEYS (IF KNOWN)

Dale M. Thuillez, Esq., Thuillez, Ford, Gold & Johnson
20 Corporate Wood Blvd., Albany, NY 12211 518-455-9952
Boston, MA 02110

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☒ Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (For Diversity Cases Only)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Motor Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 170 Other Contract <input type="checkbox"/> 180 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input checked="" type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury — Med. Malpractice <input type="checkbox"/> 365 Personal Injury — Product Liability <input type="checkbox"/> 365 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 680 Other	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Writ/In Rem 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	OTHER STATUTES <input type="checkbox"/> 490 State Reapportionment <input type="checkbox"/> 495 Antitrust <input type="checkbox"/> 495 Banks and Banking <input type="checkbox"/> 495 Commerce/ICC Rates/etc. <input type="checkbox"/> 495 Deportation <input type="checkbox"/> 495 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 510 Selective Service <input type="checkbox"/> 550 Securities/Commodities/Exchange <input type="checkbox"/> 575 Customer Challenge 12 USC 3410 <input type="checkbox"/> 591 Agricultural Acts <input type="checkbox"/> 595 Economic Stabilization Act <input type="checkbox"/> 595 Environmental Matters <input type="checkbox"/> 595 Energy Allocation Act <input type="checkbox"/> 595 Freedom of Information Act <input type="checkbox"/> 595 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 595 Constitutionality of State Statutes <input type="checkbox"/> 595 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Leases & Easements <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 250 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motion to Vacate Sentence <input type="checkbox"/> 515 Habeas Corpus: <input type="checkbox"/> 520 General <input type="checkbox"/> 525 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 750 Other Labor Litigation <input type="checkbox"/> 761 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HRA (1906) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSIO Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS — Third Party 28 USC 7629	

V. ORIGIN

- ☒ Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify) _____
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

Tort for negligence under the Federal Employers' Liability Act, 45 U.S.C.A., Section 51 et seq.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 ☐

DEMAND \$
\$1,000,000.

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ YES ☐ NO

VIII. RELATED CASE(S) (See instructions): IF ANY

JUDGE _____

SIGNATURE OF ATTORNEY OF RECORD

DOCKET NUMBER _____

DATE

FOR OFFICE USE ONLY

RECBPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

AO 440 (Rev. 10/93) Summons in a Civil Action

United States District Court

NORTHERN

DISTRICT OF NEW YORK

PAUL T. PAPADAKIS

SUMMONS IN A CIVIL CASE

CASE NUMBER:

V.

CSX TRANSPORTATION, INC.

TO: (Name and address of defendant)

CSX TRANSPORTATION, INC.
RISK MANAGEMENT, GENERAL CLAIMS DEPARTMENT
116 PLEASANT STREET, ROOM 3314B
EASTHAMPTON, MA 01027-2741

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

ROBERT M. BYRNE, JR., ESQ.
ROBERT T. NAUMES, ESQ.
THORNTON & NAUMES LLP
100 SUMMER ST., 30TH FL.
BOSTON, MA 02110

DALE M. THUILLEZ, ESQ.
THUILLEZ, FORD, GOLD & JOHNSON
20 CORPORATE WOODS BLVD., 6TH FL.
ALBANY, NEW YORK 12211

an answer to the complaint which is herewith served upon you, within _____ days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

CLERK

DATE

(BY) DEPUTY CLERK